

MONTANA LEGISLATIVE HISTORY

Chapter 459 1981

Bill H 773 S _____

Original bill & history ☒ C

H. Committee on Judiciary

Hearing Date(s) 2-17 ☒ C

2-22 ☒ C

_____ C

_____ C

Date Out _____ C

S. Committee on Judiciary

Hearing Date(s) 3-18 ☒ C

3-21 ☒ C

_____ C

_____ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

INTRODUCED: 2/14
REFERRED TO COMMITTEE ON LOCAL GOVERNMENT: 2/14
HEARING: 2/19
BILL DIED IN COMMITTEE

HB 772--KEEDY, DONALDSON, ANDERSON, ET AL--TO INCREASE THE LENGTH OF THE REGULAR SESSION OF THE 1983 LEGISLATURE TO A TOTAL OF 120 DAYS....

INTRODUCED: 2/14
REFERRED TO COMMITTEE ON RULES: 2/14
HEARING: 2/20
REPORT: 2/20, DO NOT PASS
REPORT: ADOPTED, 2/23
BILL KILLED: 2/23 YEAS: 47; NAYS: 47

HB 773--KEEDY, KEMMIS--TO PROVIDE FOR THE RECORDING AND DISTRIBUTION OF SENTENCING DATA PERTAINING TO THE PERFORMANCE OF DISTRICT COURT JUDGES.

INTRODUCED: 2/14
REFERRED TO COMMITTEE ON JUDICIARY: 2/14
HEARING: 2/17
REPORT: DO PASS AS AMENDED, 2/22
2ND READING: 2/25, YEAS: 98; NAYS: 2
3RD READING: 2/25, YEAS: 95; NAYS: 3

TRANSMITTED TO SENATE: 2/25
REFERRED TO COMMITTEE ON JUDICIARY: 3/3
HEARING: 3/18
REPORT: 3/23, BE CONCURRED IN, AS AMENDED
2ND READING: 3/26, BE CONCURRED IN
3RD READING: 3/29, YEAS: 42; NAYS: 7

RETURNED TO HOUSE WITH AMENDMENTS: 3/28
2ND READING: 4/3, YEAS: 90; NAYS: 1
3RD READING: 4/3, YEAS: 97; NAYS: 0

TRANSMITTED TO GOVERNOR: 4/15
ACTION: SIGNED, 4/20
CHAPTER 459

HB 774--WINSLOW, HANNAH, O'HARA, ET AL--AUTHORIZING THE DEPARTMENT OF ADMINISTRATION TO DEVELOP AND ADMINISTER A STATE EMPLOYEE MERIT AWARD PROGRAM.

INTRODUCED: 2/14
REFERRED TO COMMITTEE ON STATE ADMINISTRATION: 2/14
HEARING: 2/19
REPORT: DO PASS, 2/20
2ND READING: 2/23 YEAS: 56; NAYS: 43
3RD READING: 2/25 YEAS: 45; NAYS: 53
BILL KILLED ON 3RD READING: 2/25

HB 775--NORDTVEDT--TO REPEAL PROVISIONS RELATING TO WITHHOLDING FOR NONRESIDENT'S INCOME TAX....

FISCAL NOTE: REQUIRED
INTRODUCED: 2/16
REFERRED TO COMMITTEE ON TAXATION: 2/16
HEARING: 2/20
REPORT: 2/22, DO PASS
2ND READING: 3/3, YEAS: 92; NAYS: 1
3RD READING: 3/5, YEAS: 93; NAYS: 1

HOUSE BILL NO. 773

INTRODUCED BY

Keedy Kemmis

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE RECORDING AND DISTRIBUTION OF SENTENCING DATA PERTAINING TO THE PERFORMANCE OF DISTRICT COURT JUDGES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Transmittal of sentencing data to supreme court -- compilation. (1) Except as provided in subsection (2), the clerk of district court shall record on forms provided by the clerk of the supreme court the following sentencing data for each defendant sentenced:

(a) the name of the case;

(b) the fine or imprisonment, or both, allowed by law;

(c) the actual fine or imprisonment, or both, imposed;

(d) the percentage of fine or imprisonment, or both, allowed by law that is actually imposed;

(e) the amount of fine or number of years of imprisonment, or both, that are suspended; and

(f) the percentage of fine or imprisonment, or both, imposed that is suspended.

(2) Whenever a sentence of death or of life imprisonment is allowed by law, this fact must be shown in the report, together with the case name and the actual

sentence imposed.

(3) The clerk of district court shall report the names of the cases in which sentencing was deferred.

(4) The clerk of district court shall report the reasons given by the judge for the disposition of every case.

(5) The sentencing judge shall sign the form containing the information recorded by the clerk of district court pursuant to this section.

(6) The clerk of district court shall on a monthly basis total for each judge the data recorded pursuant to subsection (1) or (2), sign the report, and forward all such data to the clerk of the supreme court.

(7) The clerk of the supreme court shall compile the reports submitted by the district court clerks and distribute the data to all district court clerks and any interested party on a quarterly basis.

(8) The clerk of the supreme court shall provide a form for the recording of data required by this section.

-End-

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INTRODUCED BILL

HB 773

JUDICIARY COMMITTEE

47th Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
711	Revising laws regulating notaries public; removing the power and duty of notaries public to demand acceptance and payment of bills of exch.	2/11/81	Harper	2/16/81	Do Pass 2/20/81	2/20/81
729	To permit the formation of nonprofit corporations to provide prepaid legal services and to regulate the activities of such corps.	2/12/81	Harrington	2/17/81	Do Not Pass 2/23/81	2/23/81
741	To clarify the Montana Card Games act by defining poker and amending section 23-5-302.	2/18/81	Jacobsen	2/18/81	Do Not Pass 2/23/81	2/23/81
742	To clarify the law relating to sheriff enforcement of laws and ordinances in a city or a town. Amending 3-10-702 and 7-32-2121 MCA.	2/13/81	Jacobsen	2/18/81	Do Not Pass 2/22/81	2/23/81
744	Prohibit the use of provisions in mortgages, deeds of trust or contracts relating to real property that allow acceleration of payments or increase in interest upon transfer.	2/13/81	Hannah	2/18/81	Do Not Pass 2/22/81	2/23/81
773	Providing for the recording and distribution of sentencing data pertaining to the performance of district court judges.	2/14/81	Keedy	2/17/81	Do Pass as Amended 2/22/81	2/23/81

of the people.

HOUSE BILL 773 REP. KEEDY, chief sponsor of the bill, stated this is to provide for recording and distribution of sentencing data pertaining to the performance of district court judges. This bill is introduced for the public's right to know. It would allow the public to review the judge's decisions. It would also help the judge to see if he is unduly harsh or unduly lenient. It is safe to say that sentencing fulfills society's actions.

On page 2, line 4, the clerk of the district court would state the reasons of the judge for each case. It is important that the public have an idea of reasons of the judge. The material would be published quarterly.

DAVID STEWART was in support of the bill. The public measures what a judge does by the sentencing he hands down. A court clerk would record judgments. EXHIBIT 5. The supreme court clerk could use EXHIBIT 6 to keep a record of each judge's decisions. This might help the voters in Montana. The voters are entitled to information of what a judge is doing.

There were no further proponents.

There were no opponents.

REP. CURTISS asked who the interested parties might be and what provision is made for them to receive the information. REP. KEEDY replied anyone who is interested could simply ask for the information from the clerk's office.

REP. HANNAH asked about judges who are disqualified by an attorney. That would be important to know. REP. KEEDY replied little thought went into that. REP. HANNAH stated there are some judges who do not like to go to court and use their power to place pressure on both parties to settle out of court. REP. KEEDY replied in that case the information would not be placed on the record because it was settled out of court. Many times judges do a valuable service by doing this.

REP. DAILY said decisions are not simple. Should there be a listing of why the judge decided a particular way. REP. KEEDY replied there are limitations to the plan. It is a vast improvement over the present plan. REP. DAILY asked if this information should be available on an annual basis. REP. KEEDY replied the less frequent the information is available the less value the bill has. The idea is for public disclosure. Reasons why a judge voted a certain way would be written and submitted, as they are now.

wishes to sell without the fear of the bank becoming involved. The deed is still in the owner's name but is transferred to an escrow agent to hold; when it is paid, the title is transferred to the buyer.

REP. SEIFERT stated the banks and savings and loans are against the bill because it takes away their flexibility in selling and transferring loans. The realtors' standpoint is it would help make sales.

REP. BENNETT stated the banks make these loans to buy a house based on the secondary mortgage market. They base it on the assumption the loan will turn over every seven years. This would lock it for 30 years. The interest rates will rise with this bill. The secondary market will dry up and it will effect occupations involved in building houses. REP. HANNAH did not feel it would dry up the market.

REP. MCLANE asked if there were cases in court right now concerning this. REP. HANNAH stated yes. REP. MATSKO asked how many contracts this would effect. REP. HANNAH replied the situation arises 6 to 10 times a year in a company.

A roll call vote resulted in the motion of do pass. Those voting yes were: HANNAH and KEYSER. Those voting no were: SEIFERT, BENNETT, CONN, CURTISS, EUDAILY, IVERSON, MATSKO, MCLANE, ANDERSON, DAILY, ABRAMS, HUENNEKENS, SHELDEN, KEEDY, TEAGUE, YARDLEY and BROWN. REP. IVERSON moved to reverse the vote to do not pass. Those voting no were: HANNAH and KEYSER. Those voting yes were: SEIFERT, BENNETT, CONN, CURTISS, EUDAILY, IVERSON, MATSKO, MCLANE, ANDERSON, DAILY, ABRAMS, HUENNEKENS, SHELDEN, KEEDY, TEAGUE and BROWN. The motion of do not pass carried 17 to 2.

HOUSE BILL 773 REP. SEIFERT moved do pass.

REP. BROWN agreed with the intent of the bill but felt it would be more effective if the report was made out once a year. REP. BROWN moved to strike "a quarterly basis" on page 2, line 17 and to insert "April 1st of each year". The motion carried unanimously.

REP. HANNAH moved do pass as amended. The motion carried with REP. EUDAILY voting no.

HOUSE BILL 783 REP. TEAGUE moved do pass. He stated there is a big problem with bad checks in Billings.

The motion of do pass failed with Representatives BENNETT, TEAGUE, MCLANE and BROWN voting for the motion.

FORTY-SEVENTH LEGISLATIVE SESSION

COMMITTEE ON JUDICIARY

[illegible]

on a separate sheet for Senate, House Bills, and Resolutions.

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
March 18, 1981

The forty-sixth meeting of the Senate Judiciary Committee was called to order by Mike Anderson, Chairman, on the above date in Room 331, at 10:00 a.m.

ROLL CALL:

All members were present.

CONSIDERATION OF HOUSE BILL 711:

TO GENERALLY REVISE THE LAWS REGULATING
NOTARIES PUBLIC.

The bill was presented by Rep. Harper as a simple bill to update the law.

Don Coburn spoke in support as the originator of the bill.

Senator Mazurek asked Mr. Coburn if notaries generally charge fees for their services. Mr. Coburn said that notaries who take depositions quite often do, but many notaries who just notarize signatures do not charge a fee.

CONSIDERATION OF HOUSE BILL 773:

TO PROVIDE FOR RECORDING AND DISTRIBUTION OF SENTENCING DATA PERTAINING TO PERFORMANCE OF DISTRICT COURT JUDGES.

The bill was presented by Rep. Keedy, who pointed out that voting a judge out of office is not always the threat that it would seem, because many practicing attorneys are going to be reluctant to run against an incumbent judge. He added that people should have as much information available to them as possible, and that this bill would help give the public access to reasonably compiled and reasonably useful data.

David Stewart read from his written testimony, which is attached to these minutes.

Senator Mazurek asked why the list of items to be forwarded to the clerk of court did not include the result and how the sentence was obtained. Rep. Keedy said that he would not object to having the information included relative to whether the sentence was a plea or a verdict. In response to another

question by Senator Mazurek, Rep. Keedy stated that the clerk would make photocopies of the judge's remarks to forward, not write out copies.

David Niss referred to page 2, line 12, and asked if it was Rep. Keedy's intent to have only one type of sentence reported per month, even if more than one type of sentence was handed down. Rep. Keedy felt that it specified that every instance would be reported.

Senator Anderson asked if there was a fiscal note with this bill. Keedy replied that there was not, and that he felt the fiscal impact would be minimal because the reports would consist of information that was readily available.

Senator Anderson mentioned the publication of the LAYMAN'S GUIDE TO PHYSICIANS' SERVICES, which was a record compiled of the cures and deaths resulting from surgeries performed by various surgeons. He said that because the top surgeons were given the hardest cases to try to cure, their records ended up looking the worst because of a high death rate. He said that he feared a similar situation could develop with judges under this bill if it becomes law.

Senator Crippen directed attention to page 2, line 10, and asked why these reports would be made monthly rather than on a quarterly or semi-annual basis. Rep. Keedy replied that it might be better to change this to "quarterly".

CONSIDERATION OF HOUSE BILL 703:

TO ESTABLISH A PREFERENCE FOR JOINT
CUSTODY AWARDS UPON DISSOLUTION OF
MARRIAGE.

The bill was presented by Rep. Dussault.

Senator Mazurek, District 16, Helena, testified in support of the bill, saying that joint custody is preferable to sole custody in many cases. He said that when one parent is awarded sole custody there tends to be a divorce of the family, as well as the parents. He said that this bill was patterned after California law. He pointed out that "joint custody" means joint responsibility, not necessarily physical presence. He felt that enough parents are currently working out successful joint custodies that this alternative should be required in the law.

Joan Uda, Helena attorney, supported the bill and read from a written statement by Alan Nicholson, an affected parent. Her testimony, and that of Mr. Nicholson (attached Exhibit C), is attached to these minutes. She defined the intent of this bill

ROLL CALL

JUDICIARY COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date March 18, 198

NAME	PRESENT	ABSENT	EXCUSED
Anderson, Mike, Chr (R)	✓		
O'Hara, Jesse A. (R)	✓		
Olson, S. A. (R)	✓		
Brown, Bob (R)	✓		
Crippen, Bruce D. (R)	✓		
Tveit, Larry J. (R)	✓		
Brown, Steve (D)	✓		
Berg, Harry K. (D)	✓		
Mazurek, Joseph P. (D)	✓		
Halligan, Michael (D)	✓		

Each day attach to minutes.

NAME: David W. Stewart DATE: 3/18/81

ADDRESS: 2315 National Ave. Hialeah

PHONE: 442-0677

REPRESENTING WHOM? Self

APPEARING ON WHICH PROPOSAL: 4 B 777

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

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for immunity from prosecution in exchange for the defendant's testimony". His amendments passed unanimously. Senator Mazurek moved that the bill BE CONCURRED IN AS AMENDED, and his motion passed unanimously.

DISPOSITION OF HOUSE BILL 300:

David Niss told the committee that similar legislation has been passed by many other states and upheld in federal court. Senator Brown moved that the bill be amended as discussed in previous meetings, and this motion passed unanimously. Senator O'Hara moved that the bill BE CONCURRED IN AS AMENDED, and his motion passed over Senator Halligan's opposition.

DISPOSITION OF HOUSE BILL 773:

Senator S. Brown moved to amend the bill on page 2, line 12, by striking "or" and inserting "and"; on page 2, line 10, by striking "monthly" and inserting "quarterly". His amendments passed unanimously. Senator Olson moved that the bill be not concurred in. Senator Mazurek pointed out that this bill would make sure the guidelines were being followed. A tie vote caused the motion to fail. Senator S. Brown then moved the second amendment as shown on the attached Committee Report, and his motion passed unanimously. Senator Mazurek moved the first amendment shown on the attached Committee Report, and his motion passed unanimously. Senator O'Hara moved that the bill BE CONCURRED IN AS AMENDED, and his motion passed over the objection of Senators Anderson, Olson, Berg, and Halligan.

DISPOSITION OF HOUSE BILL 678:

Senator Tveit moved that the bill BE CONCURRED IN, and his motion passed over Senator Anderson's objection.

DISPOSITION OF HOUSE BILL 612:

Senator O'Hara moved that the bill BE NOT CONCURRED IN, and his motion passed unanimously.

DISPOSITION OF HOUSE BILL 713:

Senator O'Hara moved that the bill BE CONCURRED IN, and his motion passed over the opposition of Senators Berg and Crippen.

DISPOSITION OF HOUSE BILL 698:

Senator S. Brown moved that the bill BE CONCURRED IN, and his motion passed over Senator Crippen's objection.

DISPOSITION OF HOUSE BILL 209:

Senator S. Brown moved that the bill be amended as shown on

STANDING COMMITTEE REPORT

March 21, 1931

MR. PRESIDENT:

We, your committee on JUDICIARY

having had under consideration HOUSE Bill No. 773

KEEDY (O'HARA)

Respectfully report as follows: That HOUSE Bill No. 773,
third reading copy, be amended as follows:

1. Page 1, following line 14.

Insert: "(b) whether the conviction was by verdict or plea;"

Re-number: subsequent subsections

2. Page 2, line 6.

Following: "case"

Insert: "by attaching an extract of that portion of the judgment
setting forth the basis for the sentence"

3. Page 2, line 10.

Following: "a"

Strike: "monthly"

Insert: "quarterly"

4. Page 2, line 12.

Following: "(1)"

Strike: "or"

Insert: "and"

~~DO PASS~~

And, as so amended,

BE CONCURRED IN

P.A.